



Appeal Decision

Site visit made on 3 June 2025

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th June 2025

Appeal Ref: APP/B3030/C/23/3332281

Land lying to the west of Nottingham Road, Thurgarton, Nottingham.

(Also referred to as The Grain Store, Far Barn Farm, Priory Road, Thurgarton, NG14 7GT)

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mrs Kate Cressey for Meadow Agriculture Ltd against an enforcement notice issued by Newark & Sherwood District Council.
- The notice was issued on 6 October 2023.
- The breach of planning control as alleged in the notice is 'Without planning permission, 'development' consisting of the material change of use of part of the existing agricultural grain store yard area to a mixed use for agriculture and open air storage (Class B8)'.
- The requirements of the notice are to: A. Remove all articulated lorry backs from the land; B. Cease the use of the land for storage (Class B8) purposes and return the land to solely agricultural use.
- The period for compliance with the requirements is: 40 days.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended) (the Act). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. It is directed that the enforcement notice is corrected by:
 - the deletion of the words '(Class B8)' in section 3 of the Notice;
 - the wording in section 5.B of the Notice is deleted and replaced with 'Cease the use of the Land for a mixed use of agriculture and open air storage'.
2. Subject to the corrections, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

3. Appeals were initially made in the names of Mrs Kate Cressey and Mr Charles Holehouse, but separate recipients must make separate appeals against enforcement notices. Mr Holehouse was taken by the Planning Inspectorate as having made Appeal APP/B3030/C/23/3332282. However, his appeal did not proceed on ground (a) as it was only necessary for one appellant to pay the deemed planning application fee.
4. The development described in the Notice was the subject of planning application ref. 23/01452/FUL that was refused by the Council; Section 4 of the Notice refers. I have had regard to that decision, the Reasons for Issuing the Notice and a subsequent third-party representation in framing the main issues in the appeal.

The Notice

5. Notwithstanding any grounds of appeal, Inspectors have a duty to try to get notices in order. If I consider the Notice is defective, I have broad powers under the provisions of s176(1)(a) of the Act to correct any defect, error or misdescription in the enforcement notice, or to vary the terms of the enforcement notice. I can only do so, however, where I am satisfied that this will not cause injustice to either the appellant or the Council. If the Notice cannot be corrected, I must quash the Notice.
6. The allegation refers to a single mixed use of the site. An alleged mixed use of agriculture and storage lies outside of any of the identified use classes in the Town and Country Planning (Use Classes) Order 1987 (as amended). The reference to 'Class B8' is therefore inappropriate and should be deleted.
7. The requirement in Section 5B of the Notice seeks the cessation of the storage use. However, as the Notice is directed at an alleged single mixed use of the Land, the requirement should also refer to that mixed use. It is not open to the Council to decouple elements of a mixed use¹. If the former agricultural use of the Land was lawful then, by virtue of s57(4), that use of the Land would not be prevented on compliance with the Notice's requirements.
8. As the corrections do not substantively change the allegation nor the requirements of the Notice, I do not consider they would cause injustice to either the appellant or the Council.

The Appeal on Ground (a) and the Deemed Application for Planning Permission

Main Issue

9. The main issue is the effect of the development (the material change of use of the Land) on the character and appearance of the locality.

Reasons

10. The wider site consists of three large store buildings, a smaller brick building alongside a weighbridge and silos. Extensive areas of the site are surfaced in concrete; some peripheral areas of the land are surfaced in gravel. The site is variably bordered by trees, hedging and bushes, a planted bund, and post and rail fencing. It lies adjacent to two public rights of way (PRoW) and close to a third extending to the south.
11. The site is located on a brow in a rolling landscape primarily consisting of gently undulating arable fields bordered by hedging and open fencing. The fields are interspersed with woodland blocks and farmsteads. The landscape condition is described as 'very good' and rated with a 'high' sensitivity in the Mid-Nottinghamshire Farmlands Regional Character Area as set out in the Council's Landscape Character Assessment Supplementary Planning Document [2013] (the SPD).
12. The Council's evidence shows the Land to be primarily used for the storage of HGV trailers aligned perpendicular to the site's southern boundary. The large number of closely sited trailers are shown to extend for much of the length of the

¹ See *East Sussex CC v SSCLG* [2009] EWHC 3841 (Admin)

frontage. Although only a few trailers were present at the time of my site visit, the photographic evidence shows the potential scale of the storage use on the Land.

13. The evidence demonstrates that the enclosed trailers are readily visible behind the frontage post and rail fencing set close to the adjacent bridleway. The frontage is open to views from along the east-west route and the footpath to the south-east, which extends along a field boundary to the south. A PRoW to the east benefits from more limited direct views and partial screening by woodland and hedging.
14. The extent and scale of the trailers, shown to be brightly coloured in the photographs attached to the Notice, create a visually distinct block of storage. The intensive use of the Land for that purpose starkly contrasts with other development in the rural landscape. Regardless of any rights to a view, or otherwise, it results in a significant degree of incongruity with the predominant rural character and appearance of the area that would cause it to appear pronounced in the landscape.
15. In longer views, the presence of stored items would benefit from some screening by the existing groups of trees and the screening or backdrop effect of the existing large buildings. Notwithstanding, the imposing presence of the trailers on users of the PRoWs would be difficult to assimilate due to their scale and position. Although additional screen planting along the southern boundary of the site could be installed, even on maturity it would be unlikely, in my view, to adequately mitigate the visual harm due to the size and number of the trailers.
16. In support of the development the appellant claims that the area could be used for agricultural storage, including trailers, without the need for planning permission. However, as items associated with, and characteristic of, rural land-based uses and necessarily limited to those incidental to the requirements of the holding, any visual effect is neither likely to be so extensive nor contrast to the agricultural character of development in the rural location.
17. The fact that the mixed use sought would take place within the confines of the existing developed yard is of little merit as it is the physical presence of the storage which materially changes the character of the use of the Land. While the appellant describes the effects as self-regulating on account of the relatively small proportion of the yard area used, in my view, the scale and use of the most prominent area of the site is more than sufficient to cause a significant adverse effect on the landscape. It thereby fails to conserve the landscape quality identified in the SPD.
18. For those reasons, I find that the development conflicts with Core Policies 9 and 13 of the Newark & Sherwood Local Development Framework Amended Core Strategy [2019] and Policy DM5 of the Newark & Sherwood Local Development Framework Allocations & Development Management Development Plan Document [2013] as together they require development to protect and enhance local distinctiveness, including through landscape conservation and enhancement.

Other Matters

19. In support of the development the appellant claims that the use of the Land is vital to ensure the continued viability of the agricultural enterprise. It is asserted that this is now more significant due to the ongoing tapering-off of farming subsidies. Furthermore, the appellant states that the continuing viability of the wider enterprise also sustains the company's policy of implementing environmental

improvements on the holding, including extensive hedge planting and its operation of 'green' credentials in support of the area's rich local distinctiveness.

20. I have little doubt that the outside storage use of the Land would generate additional income and be consistent with the Government's general support for rural diversification. However, this is not without regard to the direct effects of the development. Although the appellant indicates that the benefits amount to a 5% increase in turnover, there is little substantive evidence to demonstrate that the land use is vital to the future viability of the agricultural enterprise, or that the company's policy of landscape and/or biodiversity enhancement could not otherwise be implemented. In the substantial absence of financial details of the business or evidence of a direct tie between the use of the Land and environmental enhancements, I find those claimed benefits are limited to only moderate weight in the appeal.
21. The appellant states that the use is the best use of an existing developed area. However, there is little to demonstrate that the external area provided in the last 10 years was previously underutilised and did not facilitate agricultural operations.
22. Notwithstanding that the appellant highlights that the existing storage use is for long periods, the mixed use of the Land to include storage could generate significant traffic movements to and from the site if used for other types of storage. This would have potential to increase the risk of conflict between vehicles using the site and other traffic and recreational users of the adjacent bridleway. However, the Council's evidence highlights that a dedicated route to the site exists, and, alongside a traffic management plan, its safe use could be secured through a planning condition.
23. Furthermore, the Council's rights of way advisor concludes that sufficient width and refuge opportunities are available to allow opposing users on the bridleway to pass safely. I find no reason to disagree with that conclusion subject to the appellant's ability to manage the relevant part of the PRow.
24. I acknowledge the appellant's assertion that the development has unlikely to have adversely affected biodiversity. It would have little effect on flooding, or material effects on neighbours. Furthermore, it would not displace parking at the site. However, as requirements of the development plan, these are not benefits in favour of the scheme.
25. I note the frustrations expressed by the appellant in relation to the limited time to seek to resolve matters with the Council before the Notice was served. However, this is not a matter for the appeal.

Planning Balance

26. The development causes harm to the character and appearance of the locality and the wider quality of the landscape. Although the development would support the diversification of an established rural land-based enterprise, I find the identified harm would not be outweighed by the considerations presented by the appellant. The development conflicts with the development plan read as a whole and there are no other considerations, including the National Planning Policy Framework, that outweigh this conflict.

Conclusion

27. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

R Hitchcock

INSPECTOR